

**Is is IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PAUL F. SANCHEZ,

Plaintiff,

v.

CV 11-0153 RB/WPL

Valencia County Sheriff Officers
ALAN MONTANO, #2736,
C. JOSEPH, and LAURA
MCALISTER, #3449,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

This matter is before me on the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 8) and Paul F. Sanchez's objections thereto (Doc. 9). Having conducted a *de novo* review, I find the objections to be without merit for the following reasons.

Sanchez has submitted exhibits which appear to show that a New Mexico Courts Lookup file submitted by Defendants along with their Motion to Dismiss pertains to different criminal charges than the ones at issue in Sanchez's § 1983 complaint. Defendants provided the Lookup file for case D-1314-CR-200900269 and represented that it contained the burglary charges that form the basis of Sanchez's complaint. (Doc. 4 at 10-12, Ex. A.) While this case was brought against Sanchez and included two burglary charges, (*id.* at Ex. A at 1), these appear to be different burglary charges than the ones referenced in Sanchez's complaint.¹ In his objections, Sanchez has attached the Lookup

¹ Defendants continue to assert, in conclusory fashion, that case D-1314-CR-200900269 contains the burglary charges that underlie Sanchez's complaint. (Doc. 11 at 1-2.) For the reasons given in this Order, this Court disagrees with Defendants' assertions.

file for case D-1314-CR-200900277, which contained two burglary charges. (Doc. 9 at 3.) Although these charges were brought against a “John J. Sanchez” instead of “Paul F. Sanchez,” these appear to be the same criminal defendant.² The “Register of Actions” log on case D-1314-CR-200900277 also indicates that Sanchez and the State entered an amended nolle prosequi on July 22, 2010, (*id.*), which matches the allegations in Sanchez’s § 1983 complaint. (Doc. 1, Ex. 1 at 2.) Because Sanchez did not respond to Defendants’ Motion to Dismiss, the Magistrate Judge was not made aware that Defendants had provided the wrong case when preparing his recommendation.

The result of this confusion is that one component of the Magistrate Judge’s Proposed Findings and Recommended Disposition must be disregarded. In case D-1314-CR-200900277, which appears to contain the burglary charges at issue in Sanchez’s complaint, Sanchez did not plead *nolo contendere* to any of his charged offenses. (Doc. 9 at 3-5.) Consequently, Sanchez’s false imprisonment claim cannot be dismissed under *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994) as a claim in which judgment in Sanchez’s favor would “imply the validity” of an underlying conviction or sentence, (*see* Doc. 8 at 3-4), because he has no underlying conviction or sentence stemming from the burglary charges at issue in his complaint.

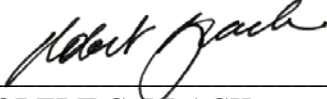
However, the rest of the Magistrate Judge’s analysis is undisturbed by the fact that the burglary charges at issue were brought in case D-1314-CR-200900277 instead of D-1314-CR-200900269. The Magistrate Judge found that a grand jury’s indictment of Sanchez prior to his arrest and detention established probable cause that defeated his § 1983 claims for both false arrest and false imprisonment. (Doc. 8 at 4-5.) Sanchez has not challenged this analysis or argued that he was

² A note attached to Sanchez’s objections refers to “Mr. Paul F. Sanchez Dob: 6-8-70 SSN: 525-23-5746 D-1314-CR-200900277 AKA: John J. Sanchez.” (Doc. 9 at 11.) Furthermore, a search on the New Mexico Courts Case Lookup website for individuals with a birth date of June 8, 1970 brings up both a Paul F. Sanchez and a John J. Sanchez.

not indicted by a grand jury prior to his arrest and detention. In fact, the "Register of Actions" log for case D-1314-CR-200900277 corroborates Sanchez's complaint and shows that he was indicted by a grand jury prior to his arrest. (Doc. 9 at 5.) As a result, Sanchez's claims must be dismissed.

IT IS THEREFORE ORDERED that:

- 1) the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 8) are adopted by the Court, as amended herein;
- 2) Defendants' Motion to Dismiss (Doc. 4) is granted; and
- 3) this cause is dismissed with prejudice.



ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE